

**TENNESSEE
COLLECTION SERVICE BOARD
MINUTES**

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DATE: January 6, 2009

PLACE: Andrew Johnson Tower – 2nd Floor Conference Room
710 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Bart Howard, Chairman
Elizabeth Trinkler
Worrick Robinson
James Mitchell
Shannon Polen

PRESENT: Staff Members:
Donna Hancock, Interim Director
Terrance Bond, Staff Attorney
Judy Elmore, Administrative Assistant

GUESTS:

CALL TO ORDER:

Chairman Howard called the meeting to order and the following business was transacted:

Interim Director Donna Hancock called the roll.

Chairman Howard welcomed new Board member James Mitchell. Mr. Mitchell introduced himself and provided a short biography. He stated that he looked forward to working with the Board.

FORMAL HEARING

A formal hearing was conducted, the Honorable Bettye Springfield, presiding. Assistant General Counsel Terrance Bond presented the case against Mr. Chuck Dunn aka Terry Miller, (Respondent) doing business as Innovative Accounts Management. Mr. Dunn aka Miller was not present nor was he represented by legal counsel. The Board found Mr. Dunn/Miller in default and held an uncontested case proceeding. Following Mr. Bond's summation, the Board found that the

respondent violated Tenn. Code Ann. 62-20-102, 62-20-103 and 62-20-105 and assessed a civil penalty of \$63,000. The board also assessed against the Respondent investigatory and hearing costs of \$8,881.41.

Chairman Howard called the board meeting back to order.

MOTION was made by Elizabeth Trinkler, seconded by Worrick Robinson, to adopt the meeting agenda as presented. (Attachment 1.)

MOTION CARRIED

MINUTES

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to *approve the minutes of November 4, 2008 meeting as written.*

MOTION CARRIED.

NACARA REPORT

Chairman Howard gave a report on the NACARA meeting he attended in September 2008. He stated that the agenda was interesting and productive and that there were many informative speakers. Mr. Howard said that there was a discussion on the subject of "debt buyers" and that he believed that it was generally felt that debt-buyers were looking for some form of regulation. Chairman Howard summed up his report on the NACARA meeting by saying that it was a very good meeting, a rewarding experience to represent Tennessee and a valuable experience to be able to interact with representatives from other states. A discussion of debt purchasers ensued.

Assistant General Counsel Terrance Bond presented the following statement to the Board and asked if it represented their collective opinion on the subject:

CLARIFICATION STATEMENT OF THE TENNESSEE COLLECTION SERVICE BOARD REGARDING DEBT/JUDGMENT PURCHASERS AND "PASSIVE" DEBT BUYERS

The clarification statement reads as follows: It is currently the opinion of the Tennessee Collection Service Board that entities who purchase judgments or other forms of indebtedness will be deemed a "collection service" if they collect or attempt to collect the debt or judgment subsequent to their purchase of the debt or judgment. However, entities who purchase debt or judgments in the manner described above but who do not collect or attempt to collect the purchased debt or judgment, but rather assign the collection activity relative to the purchased debt to a licensed collection agency or a licensed attorney or law firm shall not be deemed to be a "collection service".

The board agreed with the opinion statement as written and asked Ms. Hancock to see that it was posted on their website.

LEGAL REPORT---TERRANCE BOND, STAFF ATTORNEY**DISCLAIMER**

This Board is not responsible for the contents of the legal report. The report is compiled and presented to the Board by Assistant General Counsel, Terrance Bond.

1. L08-CSB-RBS-200801707-1

Complainant alleges that Respondent, a licensed attorney-at-law, is conducting collection activity in Tennessee without a collection service license.

Prior History: None.

Recommendation: Dismiss.

BOARD: CONCURS**2. L08-CSB-RBS-200801827-1**

Complainant alleges that she received correspondence from Respondent, among others, requesting payment of a balance that she believes has already been satisfied. Complainant is requesting various documents related to the amounts for which she alleges she is being wrongfully charged.

Prior History: Two (2) prior complaints. 1) False or misleading statements to a consumer regarding postdated checks (2007) (closed with a strong letter of warning). 2) excessive telephone calls to a consumer (2008) (closed with no action).

Recommendation: Close with no action.

BOARD: Voted to authorize formal hearing for failure to timely respond to a complaint and provide authority to settle by Consent Order and payment of a \$1,000.00 civil penalty.

3. L08-CSB-RBS-200802023-1

Complainant states that Respondent deducted an amount from his account that was greater than the amount that he authorized the Respondent to deduct. Respondent states that it was given verbal authorization to deduct the amount deducted from the Complainant's account. Respondent states further that the Complainant's past due account has now been settled in full by the Complainant and that all communications to the Complainant regarding the debt have ceased. Respondent provided account notes indicating that on July 30, 2008, the Complainant gave authorization to deduct the amount from his account that he now claims was unauthorized.

Prior History: None.

Recommendation: Close with no action.

BOARD: CONCURS

4. L08-CSB-RBS-200802072-1

Complainant states that he was contacted by Respondent concerning a past due account that did not belong to him. Respondent states that it closed the account in the Complainant's name after receiving a dispute letter from him. Respondent provided account notes showing that the account in the Complainant's name was closed approximately two (2) days after receiving written notice of the Complainant's dispute. At the time the account in the Complainant's name was closed, it had been active in the Respondents agency for approximately one (1) month.

Prior History: None.

Recommendation: Close with no action.

BOARD: CONCURS

5. L08-CSB-RBS-200802187-1

Complainant alleges that Respondent, a collection law firm, will not provide her with an accounting statement showing how her payments toward an agreed judgment are being applied.

Prior History: None

Recommendation: Dismiss.

BOARD: CONCURS

6. L08-CSB-RBS-200802212-1

Complainant alleges that the Respondent is attempting to contact a debtor who lives in his home without first obtaining his permission to do so.

Prior History: Two (2) prior complaints: 1) Consumer suspected ID theft after receiving notice of an account from Respondent. Respondent immediately ceased activity once they discovered that they were contacting the wrong individual (2008), complaint was dismissed. 2) Consumer alleged that creditor was liable to him overpayment for services rendered (2008), complaint was dismissed.

Recommendation: Close with no action.

BOARD: CONCURS

7. L08-CSB-RBS-200801998-1

Complainant states that Respondent has failed to provide proper validation concerning a debt that it asserts he owes. Specifically, Complainant alleges that the Respondent has failed to provide the following information: 1) name and location of the pharmacy where the debt was incurred; 2) date that the prescription upon which the debt is based was called in; 3) the insurance policy number referenced in letter; 4) expiration date of the policy; 5) whether one insurance agency that at one time provided coverage to the Complainant has contacted the other insurance agency that now provides coverage to the Complainant; 6) why the Respondent waited eight months after the insurance claim was filed to contact him concerning the past due account. Respondent states that it closed the account and returned it to the account holder after a discussion with the Complainant.

Prior History: None.

Recommendation: Close with no action.

BOARD: CONCURS

8. L08-CSB-RBS-200802339-1

Complainant alleges that Respondent contacted his client concerning an allegedly past due account and that Respondent identified itself as a debt collector. Complainant states that it requested validation of the alleged debt from the Respondent as well as proof that the Respondent was authorized to collect debt in the State of Tennessee. Complainant also requested that the Respondent refrain from contacting the client directly, but instead direct all correspondence to him, as he was counsel for the client. Complainant states that none of the information requested was ever provided by the Respondent. Respondent failed to respond to the Complainant's complaint, despite receiving notice of same on or around October 23, 2008, according to a certified mail return receipt.

Prior History: None.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and \$2,000.00 civil penalty and an ORDER directing the Respondent to immediately CEASE and DESIST all collection activity in the State of Tennessee until it obtains a license to conduct such activity.

BOARD: CONCURS

9. L08-CSB-RBS-200802451-1

Complainant states that he has satisfied the debt that Respondent alleges that he owes. Respondent states that it acknowledges the payments received from the Complainant toward the outstanding balance, but that unpaid amounts remain due to late fees and charges that have been added to the account since it became delinquent.

Prior History: One (1) prior complaint in 2008 alleging deceptive practices; complaint settled by payment of a \$100.00 civil penalty.

Recommendation: Close with no action.

BOARD: Wants additional information indicating that late fees and other charges were authorized by the contract underlying the debt.

10. L08-CSB-RBS-200802190-1

Complainant states that Respondent contacted him concerning a past due account that Respondent alleges he owes. Complainant provided a copy of a dunning letter from Respondent in support of his claim. Complainant states that his concern is that the Respondent's license to collect debt in Tennessee has been expired since 2004, which is confirmed by the departmental license roster, which shows that the Respondent's collection service license expired December 31, 2004. Respondent failed to respond to the Complainant's complaint, despite accepting service of same on October 3, 2008, as proven by a certified mail return receipt.

Prior History: None.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and \$2,000.00 civil penalty and an ORDER directing the Respondent to immediately CEASE and DESIST all collection activity in Tennessee until Respondent becomes licensed to collect debt in Tennessee.

BOARD: CONCURS

11. L08-CSB-RBS-200802192-1

Complainant alleges that Respondent made unauthorized third party disclosures concerning his account to his employee. Complainant states further that Respondent was abusive during collection-related calls where his employees answered the phone. Complainant provided a signed statement from an employee verifying that the Respondent did disclose to her the amount that the Complainant allegedly owed. The employee also stated that the Respondent accused her of trying to "hide" the Complainant from her when she (the employee) informed the Respondent that the Complainant was not available and that the Respondent disclosed that the matter involving the Complainant would be referred to an attorney if not resolved by the Complainant that day. The Respondent failed to respond to the Complainant's complaint, despite accepting service of same on Oct 6, 2008 according to a certified mail return receipt.

Prior History: One (1) prior complaint alleging unlicensed activity and failure to respond (2008), pending re-consideration.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and \$3,000.00 civil penalty.

BOARD: CONCURS

12. L08-CSB-RBS-200802409-1

Complainant states that the Respondent is trying to collect a debt from her upon which the applicable statute of limitations has run.

Prior History: Two (2) prior complaint in 2008, alleging erroneous billing by a first party (dismissed) and allegations of excessive telephone calls and collections in error (dismissed).

Recommendation: Close with no action.

BOARD: CONCURS

13. L08-CSB-RBS-200802410-1

Complainant states that the Respondent is trying to collect a debt from her upon which the applicable statute of limitations has run.

Prior History: Three (3) previous complaints: 1) Unlicensed activity (2006), paid \$1,000.00 civil penalty, became licensed in December 2006. 2) Failure to provide required validation documents/information. Respondent provided documentation indicating that the Complainant's request came far outside the validation window and that validation had been provided within the initial communication notice, which was not returned. (2007) The complaint was dismissed. 3) Collection efforts in error (debt was aged in excess of the statute of limitation (2008). The complaint was dismissed.

Recommendation: Close with no action.

BOARD: CONCURS

14. L08-CSB-RBS-200802482-1

Complainant states that the Respondent has attempted to collect two (2) allegedly past due accounts from which he alleges have been paid in full and that Respondent refuses to comply with his demands to cease collection until it can validate its demand for payment from him. Respondent states it was mistaken in its assumption that Complainant had

outstanding accounts and that it has now ceased collection activity relative to both accounts

Prior History: None.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and \$2,000.00 civil penalty.

BOARD: CONCURS

15. L08-CSB-RBS-200802566-1

Complainant alleges that Respondent is attempting to collect an allegedly past due account from her that she does not owe. Respondent states that it ceased collection activity against the Complainant after receiving notice of the Complainant's dispute, approximately one (1) month after receiving assignment of the account.

Prior History: One (1) prior complaint- 1) Disputed collection efforts; Complainant believed that he should not be liable for cost of services due to poor quality of services received (2007) (dismissed).

Recommendation: Close with no action.

BOARD: CONCURS

16. L08-CSB-RBS-200802260-1

Complainant states that Respondent threatened him with jail time concerning allegedly past due accounts that the Respondent was attempting to collect from him. Respondent states that it did not threaten the Complainant with jail time regarding the accounts, but that it did inform him that it would request that its client file civil warrants against the Complainant if the past due accounts were not paid.

Prior History: Three (3) prior complaints in 2008 for failure to honor a payment agreement (dismissed), threatening criminal prosecution against a debtor (formal hearing authorized and settlement offered via Consent Order and \$2,000.00 civil penalty—settlement accepted), third complaint was closed with no action..

Recommendation: Close with no action.

BOARD: Re-present in March with documentation from the agency showing the language it uses in advisory/dunning letters that it issues to debtors.

17. L08-CSB-RBS-200800318-1

Board previously voted to offer settlement to Respondent by Consent Order and payment of a \$1,000.00 civil penalty after it appeared that Respondent engaged in unlicensed activity. After receiving notice of the settlement offer, counsel for Respondent sent in correspondence respond to the settlement offer.

Recommendation: Close with no further action.

BOARD: Order to CEASE and DESIST engaging in collection activity until the location from which activity is being conducted is licensed. Authorize formal hearing with authority to settle by Consent Order and \$2,000.00 civil penalty if the agency has a location manager—increase the civil penalty settlement to \$3,000.00 if no location manager.

Brian C. Newman letter and discussion led by Attorney Terrance Bond.

Mr. Newman requested a written confirmation that a mortgage loan servicing company does not have to have a collection license.

MOTION was made by Warrick Robinson and seconded by James Mitchell to inform this mortgage loan servicing company to cease all servicing activity involving collection until they are properly license.

MOTION CARRIED

ADMINISTRATIVE ISSUES---INTERIM DIRECTOR, DONNA HANCOCK

Ms. Hancock presented the Board with a report of open complaints. She stated that there are 82 open complaints with 29 being older than 180 days.

Ms. Hancock presented the Board with a copy of budget information provided to her on 12/23/08 by Robert Lee Wright, Chief of Fiscal Services for the Department of Commerce & Insurance. The report stated “\$1,036,052.39 reserve @ 6/30/08. F & A took \$766,903.30 leaving a balance of \$269,149.09.”

Ms. Hancock presented a request from Location Manager applicant Mark Nakon requesting a waiver of the requirement to test a second time for the re-issuance of his location manager license. Mr. Nakon held a license originally issued in 2002. It expired 12/31/07. Mr. Nakon has now decided that he wants to return to business and hold a location manager license. The Board held a discussion. No motion was made. Mr. Nakon’s request for waiver was not granted.

REVIEW OF APPLICATIONS

Rodolfo Rodriguez, Jr. aka Rudy Rodriguez

Mr. Rodriguez submitted his application to take the Tennessee location manager exam. There was some concern by the board as to some accounts on his credit report. After another review of his credit report the **motion was made by Warrick Robinson and second by Elizabeth Trinkler to find Mr. Rodriguez ineligible to sit for the Tennessee Location manager exam based on 62-20-125(3).**

MOTION CARRIED

Tracy Dollas

Ms. Dollas submitted her application to take the Tennessee location manager exam. There was a concern with her credit report. After review of the credit report the **motion was made by Elizabeth Trinkler and second by Shannon Polen to approve the applicant to take the location manager exam.**

MOTION CARRIED

Marcia Barnes

Ms. Barnes submitted her application to take the Tennessee location manager exam. There was a concern with the credit report. After review of the credit report the **motion was made by Elizabeth Trinkler and second by Shannon Polen to approve the applicant to take the location manager exam**

OLD BUSINESS

There was no Old Business to discuss.

NEW BUSINESS

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to order an 'appreciation of service' plaque for former Board Member Harold Nichols.

MOTION CARRIED

Bart Howard, Chairman

Shannon Polen

Elizabeth Trinkler, Vice Chairman

Worrick Robinson

James Mitchell